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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,518	12/19/2001	David L. Gilmore	OTD-030348-US	6324

7590

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EXAMINER

MILLER, WILLIAM L

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/025,518	<b>Applicant(s)</b> GILMORE, DAVID L.	
	<b>Examiner</b> William L. Miller	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5, 11-14, 16-18 and 20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 7, 15 and 19 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office action is in response to the after-final amendment filed 04-05-2005 which has been entered. Claims 1-20 are pending.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Housas et al. (US#4487421).

4. Regarding claim 1, Housas discloses a seal assembly for a telescoping joint (claim 1) comprising: a first 14 and second 15 nested tubular members slidably mounted with respect to each other and defining an annular space therebetween; at least one seal 10, supported by one of said tubular members 14 and sealingly spanning said annular space when activated by a force applied to said seal applied through one of said tubular members 15 (namely when activated by the force applied through, or via, member 15 upon insertion into member 14 resulting in compression of the seal), said seal having a longitudinal axis and opposed ends 28,30 and being compressed to said tubular member 14 retaining it in a direction substantially aligned with its longitudinal axis (the opposed ends 28,30 are in direct contact with corresponding walls 16,18 of member 14 thereby inherently providing the claimed compression), solely by virtue of insertion of said seal into the tubular member 14 supporting it.

5. Regarding claim 2, said compression of said seal 10 is due to an interference fit in groove 12 of said tubular member 14 retaining it.

6. Claims 1, 2, 6, 7, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Strom et al. (US#4223896).

7. Regarding claim 1, Strom discloses a seal assembly for a telescoping joint (col. 3, line 23) comprising: a first 10 and second 14 nested tubular members slidably mounted with respect to each other and defining an annular space therebetween; at least one seal 13, supported by one of said tubular members 10 and sealingly spanning said annular space when activated by a force applied to said seal applied through one of said tubular members 14 (namely when activated by the force applied through, or via, member 14 upon insertion into member 10 resulting in compression of the seal), said seal having a longitudinal axis and opposed ends and being compressed to said tubular member 10 retaining it in a direction substantially aligned with its longitudinal axis (the opposed ends are in direct contact with corresponding walls of member 10 thereby inherently providing the claimed compression (Fig. 3)), solely by virtue of insertion of said seal 13 into the tubular member 10 supporting it.

8. Regarding claim 2, said compression of said seal 13 is due to an interference fit in groove 12 of said tubular member 10 retaining it.

9. Regarding claims 6 and 15, said portion of said seal 13 that spans said annular space further comprises a sealing surface having an upper 17 and a lower 18 end and where at least one of said ends 17 is beveled with respect to said longitudinal axis. The beveled end is integrally beveled and therefore without any cantilevered component.

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10. Regarding claim 7, Strom discloses the bevel angle as “about” 30 degrees (col. 3, lines 37-38) which is being viewed as “about” 15 degrees.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Housas in view of the admitted prior art (APA).

13. Although Housas discloses the seal is formed of rubber (col. 6, lines 67-68), Housas fails to disclose the seal is formed of nitrile as claimed by the applicant. However, according to the applicant, the lower half of Fig. 1 including seal assembly K represents APA. The APA discloses a seal assembly 10 for a telescoping joint wherein the seal is formed of nitrile. Therefore, as taught by the APA, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Housas by utilizing a nitrile seal as the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

14. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strom in view of the admitted prior art (APA).

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15. Although Strom discloses the seal is formed of rubber (col. 4, line 19), Strom fails to disclose the seal is formed of nitrile as claimed by the applicant. However, according to the applicant, the lower half of Fig. 1 including seal assembly K represents APA. The APA discloses a seal assembly 10 for a telescoping joint wherein the seal is formed of nitrile. Therefore, as taught by the APA, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Strom by utilizing a nitrile seal as the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

***Allowable Subject Matter***

16. Claims 3-5, 11-14, 16-18 and 20 are allowed.

17. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

18. Applicant's arguments have been fully considered and are persuasive. Therefore, the previous prior art rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection has been made as discussed above in detail.

***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068.

The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller  
Primary Examiner  
Art Unit 3677

A handwritten signature in black ink, appearing to be 'WLM', written over the printed name and title of the examiner.

WLM